

## Local Projects FAQ Planning and Programming

Question 1e. Who is appropriate to designate as my agency's Responsible Charge (RC)?

Answer 1e.

The RC is a full-time public employee, required by 23 CFR 635.105(c)(4), fully empowered by the LPA and has actual day-to-day responsibility for all decisions related to all aspects of the federal-aid project. Responsible charge does not mean merely supervising, overseeing or delegating the various tasks; it means active day-to-day involvement in identifying issues, investigating options, working directly with stakeholders, decision-making, and actively monitoring project construction. The RC is accountable for ensuring that all applicable Federal and State regulations are followed on the project and must have the responsibility, authority and resources to manage a Federal-aid project efficiently and effectively.

The LPA's RC has the following responsibilities:

- Serve as the LPA's contact for issues or inquiries for Federal-aid projects to which I am assigned by the LPA;
- Ensure that all applicable Federal, State and local laws, regulations, policies and guidelines are followed during the development and construction of the project;
- Know and follow Nebraska's LPA Guidelines Manual for Federal-Aid Projects;
- Have day-to-day involvement in identifying issues, investigating options, working directly with stakeholders, and decision-making;
- Ensure that the project plans and specifications are sealed, signed and dated by a professional engineer licensed in the State of Nebraska, and that estimates have been prepared and the construction has been observed by a professional engineer licensed in the State of Nebraska or a person under the direct supervision of a professional engineer licensed in the State of Nebraska (reference Neb. Rev. Stat. §81-3445);
- Competently manage and coordinate the project day-to-day operations, including all project-related decisions, behalf of the LPA, which includes the LPA's governing body, staff and any extended staff dedicated to the project such as consulting engineers;
- Ensure that project documents are thoroughly checked, reviewed and have had quality control measures applied, prior to submitting to NDOR and/or FHWA;
- Monitor the progress and schedule of the project and be responsible for ensuring that the project is completed on time in accordance with established milestone dates;
- Properly serve as the owner's representative, and to visit the project site during construction on a frequency commensurate with the magnitude and complexity of the project.
- Ensure that proper construction management processes have been developed and implemented for the project;
- Serve as a steward of the public funds, i.e. ensure that the public gets what it is paying for.

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- Attend all required training including the annual workshop; and
- Fulfill continuing education requirements as specified in Nebraska's LPA Guidelines Manual for Federal-aid Projects.

The LPA assures and agrees to the following:

- 1) It has authorized and fully empowered the RC to be in day-to-day responsible charge of the subject federal-aid project; this does not mean merely supervising, overseeing or delegating the various tasks, it means active day-to-day involvement in the project including identifying issues, investigating options, working directly with stakeholders, and decision-making.
- 2) The RC is a full-time public employee.
- 3) The RC is fully qualified and has successfully completed required training to serve as a RC.
- 4) It will allow the RC to spend all time reasonably necessary to properly discharge all duties associated with the project, including ensuring that all aspects of the project, from planning through post-construction activities, remain eligible for federal-aid highway project funding.
- 5) It will not assign other duties to the RC that would affect his or her ability to properly carry out the duties set out in this agreement.
- 6) It will provide necessary office space, materials and administrative support for the RC.
- 7) It will fully cooperate with, support and not unreasonably interfere with the day-to-day control of the RC concerning the acts necessary for making the project eligible for federal funding.
- 8) It will take all necessary actions and make its best good faith efforts to comply and assist the RC in complying with all federal and state requirements and policies applicable to federal-aid transportation projects, including, but not limited to, all applicable requirements of 23 CFR § 635.105.
- 9) It agrees to take all necessary actions and make its best good faith efforts to ensure that the RC's work on the project would be deemed to meet the same standards that the Nebraska Department of Roads must meet under 23 CFR § 635.105.
- 10) It will comply with the conflict-of-interest requirements of 23 CFR 1.33.
- 11) It will notify NDOR immediately in the event the designated RC(s) will no longer be assigned to the project.
- 12) It agrees that it is ultimately responsible for complying with all federal and state requirements and policies applicable to federal-aid highway projects. This includes meeting all post-construction environmental commitments. The LPA understands that failure to meet any eligibility requirements for federal funding may result in the loss of all Federal funding for the project. In the event that the acts or omissions of RC, the LPA or its agents or representatives result in a finding that a project is ineligible for Federal funding, the LPA will be required to repay NDOR some or all previously paid Federal funds and any costs or expenses NDOR has incurred for the project, including but not limited to, those costs for the RC.

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Generally, the RC could be a mid-level employee, a project manager-type with hands-on control of the project. Note that Section 15.3.1 indicates the level of education and experience that will most likely be needed in order to achieve success as a RC; LPAs are advised to take note of this in order to send the right people to training.

A LPA may have more than one RC. Reasons may include availability of a RC to adequately administer a project, or a LPA choosing to assign a RC for pre-construction phases and another RC for the construction phase.

Some LPAs may not have the appropriate personnel available or the resources to qualify a RC. In some cases a LPA may determine that it is not practical for them to qualify a RC for their project; this could be due to the LPA programming Federal-aid transportation projects on an infrequent basis, or even only one time. As mentioned in Section 15.3, a LPA may obtain the services of a RC via an interlocal agreement with another public agency. Economic Development Districts are a public agency, for example, and may choose to have one or more of their employees become RCs. Another potential scenario is for several counties and/or cities to enter into a cooperative interlocal agreement and qualify one or more "regional" RCs to share for their area.

To summarize, the four ways a LPA can obtain a RC for any given project are:

1. The LPA has full-time staff trained and acts as their own responsible charge.
2. The LPA enters into an interlocal agreement with a qualified LPA which authorizes their qualified RC to act as responsible charge on a federal aid transportation project.
3. Counties and/or cities create a few "regional" responsible charge people and various LPA's could then share these people to oversee their projects.
4. A LPA, applying for a federal aid funded project, will authorize the existing regional Nebraska Economic Development District to act as their responsible charge much as they do now on federal block grant projects. A link to the map of the 8 districts follows: <http://www.neded.org/files/assist/devdistricts.pdf>

Failure to meet any eligibility requirements for Federal funding may result in the loss of all federal funding for the project and that in such an instance, LPA will be required to repay NDOR some or all previously paid Federal funds and any costs or expenses NDOR has incurred for the project, including but not limited to, those costs for the RC.

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### Definitions

**Fully qualified** means a person who has satisfactorily completed all applicable NDOR training courses and who has met the other requirements necessary to be included on the NDOR list of qualified LPA RCs.

**Full-time public employee** means a public employee who meets all the requirements and is afforded all the benefits of full-time employees as that phrase is applied to other employees of the employing public entity. A person is not a full-time public employee if that person provides outside private consulting services, or is employed by any private entity, unless that person can prove to NDOR in advance, that employee's non-public employment is in a field unrelated to any aspect of the project for which federal aid is sought.

**Public employee** means a person who is employed solely by a county, a municipality, a political subdivision; a Native American tribe; a school district; or another entity that is either designated by statute as public or quasi-public, or an entity included on a list of entities determined by the Nebraska Department of Roads, and approved by FHWA, as fulfilling public or quasi-public functions.

**Responsible charge** means the public employee who is fully empowered by LPA and has actual day-to-day working knowledge and responsibility for all decisions related to all aspects of the federal-aid project from planning through construction project activities, including all environmental commitments. RC is the day-to-day project manager, and the LPA's point-of-contact for the project. Responsible charge does not mean merely delegating the various tasks; it means active day-to-day involvement in identifying issues, investigating options, working directly with stakeholders, making decisions, and actively monitoring project construction. It is understood that RC may delegate or contract certain technical tasks associated with the project so long as RC actively manages and represents the owner's interests in the delegated technical tasks.

Review the following sections of the LPA Guidelines Manual

<http://www.transportation.nebraska.gov/gov-aff/lpa/lpa-guidelines.pdf>.

- Section 1.5 Roles and Responsibilities
- Section 1.8 Terms and Definitions
- Section 3.2 Project Roles and Responsibilities
- Section 15.3.1 Qualifications